

DETAILED ACTION

1. This action is in response to the amendment and remarks received on October 13, 2009.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 6-13, 18-22, 26-31, 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katou et al. (USPN 6,214,282) in view of Weiler (USPN 4,671,763), Pasternicki (USPN 4,675,070) and Peronek et al. (USPN 6,698,160).

In reference to claims 1 and 7-13, 19-22, 26, 28-31, 35 and 36, Katou et al. discloses a process and apparatus for manufacturing a pouch¹ comprising: grasping a neck portion of a preform with a positive transfer/handling system (figures 13B-13f) and maintaining control of the neck portion of a preform with the positive transfer system during blow molding (figures 13B-13c) the preform into a pouch, wherein the neck portion of the preform is the same as the neck portion of the pouch; filling the pouch with a product (figure 13d); closing the filled pouch (figure 13e); and releasing the filled and sealed pouch from the system for use by a consumer.

¹ sealed plastic or foil container (American Heritage Dictionary)

Katou et al. does not disclose the wall thickness of the pouch. Weiler teaches a process of blow molding a preform into a pouch, wherein the preform is made from a layer of polypropylene having a thickness of .010 inches. (column 10 lines 45-50). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the method of Katou et al. to include a polypropylene perform having a wall thickness of .010 inches, since column 10 lines 51-57 provides a uniform compression of the perform during shaping of the perform.

Katou et al. does not disclose placing the filled pouch into a rigid container while maintaining control of the neck portion with the positive transfer system. Pasternicki teaches a method of placing a pouch in a rigid container 47 while maintaining control of a neck portion 10 of the pouch 11 with a positive transfer system 6. It would have been obvious to one having ordinary skill in the art at the time of the invention to further modify the process of Katou et al. to include the step of placing the pouch into a rigid container while maintaining control of the neck portion of the pouch, since 1 lines 20-24 of Pasternicki states that such a modification provides eternal stabilization of the pouch for the purpose of allowing the pouch to stand upright on a surface without further assistance.

Neither Katou et al. nor Pasternicki discloses capping the filled pouch. Peronek et al. teaches a method of capping a filled pouch while maintaining control of the neck portion of the pouch. It would have been obvious to one having ordinary skill in the art at the time of the invention to further modify the method of Katou et al. to include the step of capping the filled pouch under positive neck control, since caps are known removable closures that allow accessibility to a pouch contents while allowing rescaling of the pouch for protection of the

contents. Column 1 lines 55-57 of Peronek et al. states that positive neck control of the pouch during capping provides essential support to the container during processing.

Regarding claims 6, 18 and 27, while Katou et al. in view of Pasternicki discloses placing the pouch into a rigid container; the rigid container in which the pouch is placed has a tubular shape with a flat base, rather than a box shape. Examiner finds that both the tubular container and the box container would provide equal support to the pouch for Applicants disclosed advantage (paragraph 36 or specification) of providing external support to the pouch.

4. Claims 2, 3, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katou et al. (USPN 6,214,282) in view of Weiler (USPN 4,671,763, Pasternicki (USPN 4,675,070) and Peronek et al. (USPN 6, 698,160) as applied to claim 1 above, and further in view of Wakabayashi (USPN 3,818,785).

Regarding claims 2, 3, 23 and 24, the modified process of Katou et al. does not disclose decorating and/or dressing the flexible containers. Wakabayashi teaches a process of manufacturing flexible containers including the steps of: blow molding (A) a preform into a flexible container; filling (I; column 2 lines 61-62) the flexible container with a desired product; and decorating (K) the flexible container after the container has been filled. It would have been obvious to one having ordinary skill in the art to further modify the process of Katou et al. to include the step of decorating flexible containers, as suggested by Wakabayshi, for the purpose of disclosing information regarding the contents of the flexible container.

5. Claims 10, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCullough et al. (USPN 5,049,349) in view of Katou et al. (USPN 6,214,282) in view of Weiler (USPN 4,671,763 and McCullough et al. (USPN 5,049,349).

Katou et al. discloses an apparatus for manufacturing a pouch² comprising: grasping a neck portion of a perform with a positive handling system 63 (figures 13B-13f) and maintaining control of the neck portion with the positive transfer system during blow molding (figures 13B-13c) of the perform into a pouch in a manufacturing system; a filling system 36 for filling the pouch with a product (figure 13d), a closing machine 25 for closing the filled pouch (figure 13e) and releasing the filled and sealed pouch from the system for use by a consumer.

Katou et al. does not disclose the wall thickness of the pouch. Weiler teaches a system of blow molding a preform into a pouch, wherein the preform is made from a layer of polypropylene having a thickness of .010 inches. (column 10 lines 45-50). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the method of Katou et al. to include a polypropylene perform having a wall thickness of .010 inches, since column 10 lines 51-57 provides a uniform compression of the perform during shaping of the perform.

Katou et al. does not disclose a system that places the filled pouch into a rigid container before the pouch is filled. McCullough et al. teaches an apparatus for manufacturing flexible pouches, including a packaging system adapted to place the flexible pouch into a rigid box before filling the pouch. It would have been obvious to one having ordinary skill in the art at the time of the invention to further modify the apparatus of Katou et al. to include the step of placing the pouch into a rigid box while maintaining control of the neck portion of the pouch, since 2 lines 36-42 of McCullough et al. suggests that such a modification provides an inexpensive and reliable means of securing the pouch to a rigid container.

² sealed plastic or foil container (American Heritage Dictionary)

Regarding claims 6, 18 and 27, while Katou et al. in view of Pasternicki discloses placing the pouch into a rigid container; the rigid container in which the pouch is placed has a tubular shape with a flat base, rather than a box shape. Examiner finds that both the tubular container and the box container would provide equal support to the pouch for Applicants disclosed advantage (paragraph 36 or specification) of providing external support to the pouch.

6. Claims 31-33 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoneyama et al. (US 2003/0059130) in view of Katou et al. (USPN 6,214,282) and Weiler (USPN 4,671,763).

In reference to claims 31-33 and 35, Yoneyama et al. discloses a process comprising: blow molding (paragraph 4) a multi-layered perform (paragraph 24) into a flexible pouch 2; filling the flexible pouch and placing the pouch in a rigid container (paragraph 23), such that the flexible pouch relies on collapsibility for drainage. Yoneyama et al. does not disclose maintaining positive control of the preform from which the pouch is formed throughout the disclosed process. Katou et al. teaches a process and apparatus for manufacturing a pouch³ comprising: grasping a neck portion of a perform with a positive transfer/handling system (figures 13B-13f) and maintaining control of the neck portion with the positive transfer system during blow molding (figures 13B-13c) the perform into a pouch, filling the pouch with a product (figure 13d), closing the filled pouch (figure 13e) and releasing the filled and sealed pouch from the system for use by a consumer. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the process of Yoneyama et al. such that positive control of the neck portion of the preform is maintained since the neck portion

³ sealed plastic or foil container (American Heritage Dictionary)

is the portion of the preform whose size does not change or adjust during the process of molding, filling and sealing of the preform.

Yoneyama et al. also does not disclose the wall thickness of the pouch. Weiler teaches a process of blow molding a preform into a pouch, wherein the preform is made from a layer of polypropylene having a thickness of .010 inches. (column 10 lines 45-50). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the method of Katou et al. to include a polypropylene perform having a wall thickness of .010 inches, since column 10 lines 51-57 provides a uniform compression of the perform during shaping of the perform.

7. Claims 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoneyama et al. (US 2003/0059130) in view of Katou et al. (USPN 6,214,282) and Weiler (USPN 4,671,763) as applied to claim 31 above, and further in view of Yorn et al. (USPN 6,827,237).

Regarding claim 34, Yoneyama et al. discloses a method of producing a flexible pouch, including placing the flexible pouch within a rigid container. Yoneyama et al. does not disclose providing the flexible pouch with an outer layer of foam. It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the flexible pouch with an outer layer of foam, since column 3 lines 59-67 states an outer layer of foam can assist the removal of contents from within the flexible pouch while positioned within the rigid container.

Response to Arguments

8. Applicant's arguments filed October 13, 2009 have been fully considered but they are not persuasive.

9. Applicant has argued that neither Katou, nor any of the other cited references, disclose maintaining positive control of a neck portion of a preform **throughout the process** as claimed. Figure 13a of Katou has been referenced by Applicant to support this assessment. However, the step illustrated in figure 13a is not a part of the manufacturing process claimed by Applicant. As noted in the rejection presented above, Examiner has cited figures 13B-13f of Katou for their disclosure of the claimed process, wherein the cited figures illustrate the neck portion of the preform maintained **throughout the process** until the filled pouch is released from the system; figure 13c-13e illustrate formation of the preform in to a container and filling of the container, throughout which the neck portion is maintained in a supported and secured state by the lower mold.

With respect to the disclosure of the secondary references regarding maintaining control of the neck portion of a preform during the process steps as claimed: Weiler (USPN 4,671,763) is relied upon for the teaching of maintaining control of a neck portion of a preform having a specified wall thickness during the process steps of forming, filling and closing the preform (figures 4, 5, 6A and 7); Pasternicki (USPN 4, 675,070) is relied upon for the teaching of maintaining control of a neck portion of a preform during the process steps of filling and placing a pouch in a rigid container (figure 6); and Peronek et al. is relied upon for the teaching of maintaining control of a neck portion of preform during the process steps of capping a filled container placed into a rigid container, as well maintaining such neck portion control during transfer of the preform (column 19 lines 61-64).

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GLORIA R. WEEKS whose telephone number is (571)272-4473. The Examiner can normally be reached on M-Th 8am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 3721

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
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- Information Help line 1-800-786-9199

/Gloria R. Weeks/
Examiner, Art Unit 3721

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3721

January 19, 2010